

AMENDED IN ASSEMBLY APRIL 16, 2013

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 259

Introduced by Assembly Member Logue

February 7, 2013

An act to amend Section 2762 of the Business and Professions Code, and to add Section 1259.7 Chapter 13 (commencing with Section 1796) to Division 2 of the Health and Safety Code, relating to ~~nursing health and care facilities~~.

LEGISLATIVE COUNSEL'S DIGEST

AB 259, as amended, Logue. ~~Nursing: Health and care facilities: CPR in emergency situations.~~

The Nursing Practice Act governs the licensing and regulation of professional nursing, and vests authority for enforcing the act in the Board of Registered Nursing within the Department of Consumer Affairs. Among other provisions, the act provides that a person licensed pursuant to the act who in good faith renders emergency care at the scene of an emergency which occurs outside both the place and the course of that person's employment is not liable for any civil damages as the result of acts or omissions by that person in rendering the emergency care, except as specified. The act also authorizes the board to take disciplinary action against a certified or licensed nurse for unprofessional conduct, as described. A person who violates a provision of the act is guilty of a misdemeanor.

Existing law regulates health facilities, including skilled nursing facilities, intermediate care facilities, and congregate living health

~~facilities long-term health care facilities, community care facilities, adult day health care centers, and residential care facilities.~~ A person who violates these provisions is guilty of a crime, except as specified.

~~This bill would make refusing to administer cardiopulmonary resuscitation in an emergency situation unprofessional conduct for purposes of the Nursing Practice Act, as specified. By creating a new crime, the bill would impose a state-mandated local program.~~

~~The bill would also provide that if a skilled nursing facility, an intermediate care facility, or a congregate living health facility implements or enforces a policy that prohibits a licensed professional nurse employed by the facility make it a misdemeanor for those facilities to have a policy that prohibits any employee from administering cardiopulmonary resuscitation, that policy is void as against public policy except as specified. By creating a new crime relating to health care these facilities, the bill would impose a state-mandated local program.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 2762 of the Business and Professions~~
2 ~~Code is amended to read:~~
3 ~~2762. In addition to other acts constituting unprofessional~~
4 ~~conduct within the meaning of this chapter it is unprofessional~~
5 ~~conduct for a person licensed under this chapter to do any of the~~
6 ~~following:~~
7 ~~(a) Obtain or possess in violation of law, or prescribe, or except~~
8 ~~as directed by a licensed physician and surgeon, dentist, or~~
9 ~~podiatrist administer to himself or herself, or furnish or administer~~
10 ~~to another, any controlled substance as defined in Division 10~~
11 ~~(commencing with Section 11000) of the Health and Safety Code~~
12 ~~or any dangerous drug or dangerous device as defined in Section~~
13 ~~4022.~~

~~(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.~~

~~(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.~~

~~(d) Be committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in subdivisions (a) and (b) of this section, in which event the court order of commitment or confinement is prima facie evidence of such commitment or confinement.~~

~~(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a).~~

~~(f) Refuse to administer cardiopulmonary resuscitation in an emergency situation, provided that the nurse is able to perform the resuscitation. This subdivision does not apply if there is a "Do not resuscitate" order in effect for the person upon whom the resuscitation would otherwise be performed.~~

~~SEC. 2. Section 1259.7 is added to the Health and Safety Code, to read:~~

~~1259.7. If a skilled nursing facility, an intermediate care facility, or a congregate living health facility implements or enforces a policy that prohibits a licensed professional nurse employed by the facility from administering cardiopulmonary resuscitation, that policy is void as against public policy.~~

~~SECTION 1. Chapter 13 (commencing with Section 1796) is added to Division 2 of the Health and Safety Code, to read:~~

1 *CHAPTER 13. CARDIOPULMONARY RESUSCITATION*

2
3 1796. (a) *It is a misdemeanor for a long-term health care*
4 *facility, as defined in Section 1418, community care facility, as*
5 *defined in Section 1502, adult day health care center, as defined*
6 *in Section 1570.7, or residential care facility for the elderly, as*
7 *defined in Section 1569.2, to have a policy that prohibits any*
8 *employee from administering cardiopulmonary resuscitation.*

9 (b) *This section does not apply if there is a “do not resuscitate”*
10 *or Physician Orders for Life Sustaining Treatment form, as defined*
11 *in Section 4780 of the Probate Code, or an advance health care*
12 *directive that prohibits resuscitation, as specified in Part 2*
13 *(commencing with Section 4670) of Division 4.7 of the Probate*
14 *Code, in effect for the person upon whom the resuscitation would*
15 *otherwise be performed.*

16 ~~SEC. 3.~~

17 SEC. 2. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.